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## THE CONSTITUTION VINDICATED.

Nationality, Secession, Slavery.

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BY JAMES A. HAMILTON.

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The Government of the United States, the result of the earnest and patriotic labor of the most illustrious body of practical statesmen ever assembled for any political purpose, is perseveringly represented, not only by its enemies now in rebellion, but by leading partisans and influential men in public stations, who sympathize with treason, as a mere compact between sovereign and independent States. They dare to say, "The Government of the United States is the agent through whom the States communicate with foreign nations." Dr. Thomas Cooper, of South Carolina, taught the people of that State, thirty years past, to believe that, "The citizens of the various States owe their obedience to the Government of the United States, because their own State, as part of the Confederation, enjoins it; but allegiance is a term applicable only to that submission which we owe to our own sovereign State." "The Government of the United States was created by the existing separate States." Jeff. Davis said, "*State sovereignty leads legitimately to secession, and thus the right of a State to secede from the Union is an essential attribute of State sovereignty.*" Let the States' Rights party take the legitimate consequences of the dogmas they teach, and avow that they are secessionists. Thus we find that by the apostles of secession we are thrown back to the political condition in which we were before the existing Constitution was established.

The Government thus described was that formed by "The Articles of Confederation," and no other. It was an impracticable absurdity. That disastrous experiment brought the

country in less than seven years "*to a condition almost of anarchy.*" Mr. Madison, speaking of the situation of the Nation under *the Confederation*, says, "She finds she is held in no respect by her friends; that she is the derision of her enemies; and that she is a prey to every nation which has an interest in her fluctuating councils and embarrassed affairs."

*The Federalist*, No. 15.—"We may, indeed, with propriety be said to have reached the lowest stage of national humiliation," &c. Again, speaking of the *States' Rights democrats* who opposed the adoption of the now existing Constitution, said, "They aim at sovereignty in the Union, and complete independence in the members; they cherish with blind devotion *the political monster of an Imperium in imperio.*" Again, "The great and "radical vice in the construction of the confederacy is the principle of legislation for States or Governments in their corporate or collective capacities, and as contradistinguished from the individuals of whom they consist. This was the bane of that Government, and is entirely incompatible with the idea of a government." "A principle, in short, which, if executed at all, must substitute the violent and sanguinary agency of the sword for the mild influence of the Magistracy."

*Hamilton*: "Experience is the oracle of truth, and when its responses are unequivocal, they ought to be conclusive and sacred."

The important truth which is unequivocally produced in the present case, is, that *a sovereignty over sovereigns; a government over governments; a legislation for communities*, as contradistinguished from *individuals*; as it is a solecism in theory, so in practice it is subversive of the order and ends of civil polity; by substituting *violence* in place of *law*, or the destructive coercion of the *sword* in place of the mild and salutary coercion of the Magistracy. Such was the government established by the *Articles of Confederation*, a league between sovereign and independent States. (See Articles 2d and 3d.)

The following statement of facts will prove how completely it had run down, and that the country was only saved from *anarchy* by the establishment of a *National Government*.

The former Government had power only to make requisitions for men and money upon the sovereign States. During the last

*five years* of that Government, a period of peace, the States of *Georgia, South Carolina and North Carolina*, did not contribute *one dollar* to the National Treasury; and only one State (New York) contributed her full quota. In the year 1786 the amount contributed was only \$200,000, and that by two States only. During the war the delinquency of the States was universal.

Such was the fatal result of that *political monster* called a Government. To destroy it, the Convention of 1787 was called, and they formed, in the name of *The People of the United States of America*, a Constitution of Government, which *The People adopted* by conventions, whose members were elected by the people of the different States.

Mr. Madison says: "The characteristic distinction between free Governments and Governments not free, is that the former are founded on compact, not between the Government and those for whom it acts, but among the parties creating the Government. Each of these being equal, neither can have more right to say that the compact has been violated, than every other has to deny the fact, and to insist on the execution of the bargain. An inference from the doctrine that a single State has a right to secede at will from the rest, is that the rest would have an equal right to secede from it; in other words, to turn it out." "In the case of a State seceding from the Union, its domain would be dismembered."

To insist that the Convention of 1787 formed a Government with the inherent vice of independent State sovereignties not only violates the truth of history, but imputes to its members the folly of proposing for the adoption of the people of the United States a system of government which had been proved to be a palpable failure. But, when proposed by Mr. Patterson, and known as the *Jersey plan*, was rejected—thus "Mr. King moved that the committee rise and report that the *Jersey plan* was inadmissible." \* \* \* "This motion was carried by *seven* States for the motion, *three* against, and one divided." Thus the plan of a confederacy of sovereign and independent States was rejected and never taken up again. Mr. Madison, in debate, said: "It is impossible that the articles of confederation can be amended; they are too tottering to be invigorated; nothing but the present system (the Virginia plan) or some-

“thing like it, can restore the peace and harmony of the country.”

Luther Martin, a delegate from Maryland, objected to the Virginia plan, saying: “It is in its very introduction declared to be a compact of the *People* of the United States as *individuals*, and is to be ratified by the *People at large* in their capacity of individuals.” He insisted, as an objection to the Constitution, “that the representatives, instead of being drawn from the *people at large* as *individuals*, ought to be drawn from *the States, as States*, in their *sovereign* capacity; that the system of Government ought to be ratified *by the States*, and not by *the people* as *individuals*.”

That in denial of these historical truths, the Secessionists, or the *State Rights* Democrats who sympathise with treason, should aver that our Government is a compact between sovereign States—that its whole power is derived from the State Governments, and consequently that, as sovereigns, the States have a right to secede, is so like “the baseless fabric of a vision,” as justly to be denounced *a base imposture*.

In the preamble to that Constitution which constituted a *sovereign power*, it was declared: “We the People of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”

It is worthy of note in regard to this glorious preamble, that, as the Article of Confederation had declared “*the Union shall be perpetual*,” it was only necessary to make that which was decreed to be a “perpetual,” “*a more perfect union*,” by destroying those powers in the respective State governments which could endanger the Union; and above all, by changing their character of “sovereign and independent states.” Their *State Legislatures* were not made parties to it by being called to ratify the proposed constitution, but, *the people* were. Although this preamble may not be considered as a source of power, it must unquestionably be an *index* to the objects for which the Government was formed, and a guide, in the examination of its powers.

These objects having been declared, it is to be presumed, the

powers necessary and proper to carry them out, would be found, as they are, in the *Constitution*; thus *ordained and established*.

We hold that "*sovereignty is the supreme ultimate authority in a country.*" In our country, such authority was in the people of the United States, they having "been made *one people* by a federal act."—Hamilton. The Declaration of Independence; and when they formed the existing constitution of government, they conferred that supreme ultimate authority upon the National Government, making the State Governments constituent parts of the Government, and leaving with them those residuary authorities required to be exercised for local purposes.

When the people of the several States, by their delegates in convention, adopted the *National Constitution*, they, by that act necessarily eliminated from their respective State constitutions all such powers as were inconsistent with, or repugnant to, the powers conferred by them on the Government of the United States by that *Constitution*, and this was as effectually done as if they had declared *seriatim* that such and such powers before conferred by them on their State Governments should no longer exist. For instance: therefore the State constitution and laws were the supreme authority over the people within the limits of the respective States, but when, by the adoption of the National Constitution, The People declared, as they did in the most emphatic manner, "This Constitution, and the laws of the United States which shall be made in pursuance thereof," &c., "*shall be the supreme law of the land*, and the Judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." They necessarily decreed that their State Governments should no longer possess "the supreme ultimate authority" over the people of such States, and thus the people deprived their State Governments of that *sovereign and independent* character before asserted.

The Articles of Confederation were *not* ratified by the people of any State, or of the Nation, whereas the existing Constitution having been so ratified, "*The fabric of American empire rested upon the solid basis of 'The consent of the American People;'*" "*the pure original fountain of all legitimate authority.*"—HAMILTON.

We now ask the judicious reader what ground can there be

for the dogma, "That the States are sovereign and independent powers, when the source of all powers—The People of the United States—have declared, that the people of the States shall be governed by the constitution and laws of another Government? "*Supreme is sovereign power.*" The sovereign power to make all laws, pursuant to the National Constitution, the rule of action of the people of the States, deprived the State governments of sovereign power over all *those subjects* which were committed to the United States Government.

This brings us to the examination of those powers, and we here assert, without the fear of contradiction, that they will be found to embrace all the essential attributes of sovereignty.

Article 1, sec. 8, declares :

The Congress shall have power :

To lay and collect taxes, duties, imposts, and excises ; to pay the debts, and provide for the common defence and general welfare of the United States.

To borrow money on the credit of the United States.

To regulate commerce with foreign nations, and among the several States.

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

To provide for the punishment of counterfeiting the securities of, and current coin of the United States.

To establish post offices and post roads.

To promote the progress of science and useful arts, &c.

To constitute tribunals inferior to the Supreme Court ; to define and punish piracies and felonies committed on the high seas, and offences against the laws of nations.

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

To raise and support armies, &c.

To provide and maintain a navy.

To make rules for the government of the land and naval forces.

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

To provide for organizing the armies, and disciplining the militia, &c.

To exercise exclusive legislation in all cases whatever over such "district,"—the seat of government of the United States—"and over forts," &c.

*To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.*

The above powers speak for themselves, and now we call upon the advocates of State sovereignty and independence to make the experiment theoretically, how could their State governments get along as independent or sovereign States without the foregoing powers? They are, with one exception, (the collection of taxes,) exclusive powers.

In addition, the power of making treaties, and of admitting new States, is given exclusively to the United States. Here, again, we find these vastly important powers are expressly denied to the States.

We forbear to go further on this point, and proceed to examine the powers conferred by the seventeenth clause, which we have underlined, and to show, as we hope to do, beyond all controversy, that the Congress has power *to abolish Slavery throughout the United States.*

All persons who have read the debates well know that the convention persistently rejected details of means to an end, as the illustrious Webster said: "It was not their intention in those cases to enumerate particulars." It may be truly said, that of all parts of the Constitution, this seventeenth clause is the part which manifests the most skill and dexterity on the part of the distinguished statesmen who formed that great charter of the temple of human liberty.

It not only gives power to Congress to make all laws necessary and proper, (which the Supreme Court of the United States has decided to mean "*appropriate*") for carrying into execution the foregoing powers, and among them the power to do



what? "To pay the debts," yes—and in addition thereto, and above all, "*to provide for the common defence and the general welfare of the United States.*"

That is, as to *defence*, to employ the money of the Government to raise, equip, and sustain armies, and a navy, to be employed in the common defence of the nation, or in doing whatever else is appropriate to that great and vital national end and purpose; and also, to employ the money so obtained in all other ways which will promote the "*general welfare.*" It is absurd to say that this power to obtain money by taxation is confined to the payment of debts, and that it does not extend to the two other important purposes expressed. Why should the great power of taxation be thus confined to the debts; and the other two great national objects enumerated be considered as obsolete or expunged? On the contrary, the true interpretation of the clause must be, that "the common defence and general welfare" should be secured and provided for by the employment of money, and by the exercise of the power by Congress to make necessary and proper laws.

One, and a most important, mode of using the money obtained by taxes to provide for the general welfare, would be, by opening channels of communication of a national character to facilitate commerce between the States, and thus provide, in an eminent degree, for the general welfare of the United States.

This, the first clause, is of vast importance; it clearly imports that among the foregoing powers, the Congress is to make laws to provide for the payment of debts, the common defence, and the general welfare. To give this clause that narrow interpretation which confines it to the appropriation of money to pay the debts only, would be to expunge the two other equally important objects.

The great rule by which the Constitution is to be construed, is well laid down by Mr. Madison, thus: "The different parts of  
"the same instrument ought to be so expounded as to give meaning to every part which will bear it; shall one part of the same  
"sentence be excluded altogether from a share of the meaning;  
"and shall the more doubtful and indefinite terms be retained  
"in their full extent, and their clear and precise expressions be  
"denied any signification whatever."

This rule was laid down in reply to objections made to this clause: "To raise money to provide for the general welfare." Let us test this very important clause by this rule: "The Congress shall have power to lay and collect taxes," &c., "*to pay the debts.*" That is one part which is not denied. Another part is, "*and to provide for the common defence.*" This is not denied. Indeed, there are powers which have been exercised without question through the whole course of our Government. The other part is, *and to provide "for the general welfare of the United States."* This last part of the instrument is as clearly and precisely expressed as the two other parts; and by strict constructionists it is denied any significance whatever."

It was objected, says Mr. Madison, that "the above clause amounted to an unlimited commission to exercise every power which may be alleged to be necessary for the common defence and general welfare." He adds: "A power to destroy the freedom of the press, the trial by jury, or even to regulate the course of descents, or the forms of conveyance, must be very singularly expressed by the terms: To raise money for the general warfare." He further says: "The objection here is the more extraordinary as it appears the language used by the Convention is a copy from the articles of the Confederation. The objects of the union among the States, as described in Article 3d, are their common defence and general welfare." And here it is to be remarked, that the old Congress of the Confederation, in order to provide for the general welfare in 1787, passed that ordinance which excluded slavery from all the territory then held by the United States. Thus was this grant of power to provide for the *general welfare*, wisely carried out by the Congress of the Confederacy."

As to the objection that giving power to Congress to provide for the general welfare, was a grant of unlimited power; the answer is, that, as we find the grant in the Constitution it must be deemed authoritative, and to be expounded in order to give meaning to every part of that instrument, to give effect to the two other objects of the clause; and to pretend to deny any signification to this one would be absurd. There it stands in the Constitution a clear and precise expression of *power*, and *duty*, and one of the purposes indicated by the preamble, whatever effect, as to the character of the instrument may be attributed to it. It cannot, therefore, be expunged or ignored.

John Quincy Adams, in relation to this clause, wrote :

“To pay the debts of the United States was the first object “for which by the Constitution of the United States—the power “to lay and collect taxes, duties, imposts, and excises, was conferred upon Congress. To provide for the common defence “and general welfare was the second object; and these expressions, broad and comprehensive in their import, far from being without meaning in the intention of the founders of the “Constitution, embraced the great purpose for which the Constitution was formed. They are introduced in the solemn preamble in which the people of the United States, speaking in “the first person—‘We the people of the United States,’ announce the great purpose for which they ordain and establish “this Constitution. They are emphatically repeated in the 8th “section of the 1st article containing the grants to Congress of “power *and they are not only grants of power but trusts to be “executed, duties to be discharged, for the common defence and “general welfare of the Union.”*

By the 17th clause of Section 8, Art 1, it is declared that “The Congress shall have power to make all laws which shall be necessary and proper *for carrying into execution* the foregoing powers and *all other powers vested by this Constitution in the Government of the United States*, or in any department or officer thereof.

“The Supreme Court of the United States, in the case of *McCulloch vs. State of Maryland*, 4 Wheaton, have said: “We think the sound construction of the Constitution must allow to the National Legislature that discretion with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. *Let the end be legitimate; let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end; which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional.*”

It is incontrovertible, that under the first clause, 8th Sec., Art. 1, the power to pay the debts, to provide for the common defence and general welfare, are “powers “*vested by this Constitution in the Government of the United States*, and that Congress has power to make all laws which shall be in their discretion and in obedience to the high duty of the Government, to *provide for the general welfare*; to make all such laws as shall be necessary or proper for carrying into execution all powers vested by the Constitution in the Government of the United States, and among other laws to abolish slavery and to enlist or

draft all such male persons as are held to service and labor in any States by the laws thereof, who are competent to perform the duties of soldiers, and thus by both these measures to provide for the general welfare, if such measures are deemed proper to provide for the general welfare.

It has been wisely said, and with axiomatic truth by the judicious and well informed in our country: "That a Government ought to contain in itself every power requisite to the full accomplishment of the objects committed to its care, and the complete execution of the trusts for which it is responsible, free from every other control, but a regard to the public good, and to the sense of the people." (Hamilton No. 31 *Federalist*).

The highest object committed to the care of the Government is to *preserve the life of the Nation*, and next to that is, "*To provide for the general welfare.*" These high trusts are vested by the Constitution in the Government of the United States, and the power for the complete execution of these powers free from every other control is given to Congress in the section quoted.

The National life is to be preserved by all the accustomed means of war. The general welfare is to be provided for by facilitating and regulating commerce with foreign nations, and among the several States; by providing a sound currency; by regulating commerce with foreign nations and among the States; by establishing Post-offices and post-roads; by promoting the progress of science and the useful arts; by securing to the citizens of each State all the privileges and immunities of citizens in the several States; by guaranteeing to every State in the Union a Republican form of Government.

It is made by the Constitution the express duty of the President, "*To preserve, protect, and defend the Constitution of the United States.*"

This is a power vested in him by the Constitution, and therefore Congress has the power, which they are bound to exercise, to pass all such laws as may be necessary and proper to enable him to perform that duty.

The people of several of the States are in rebellion; their purpose is to destroy the Union and the powers of the Constitution and laws as a rule of action for them. The President has declared by his Proclamation that slavery gives these people a vast power in conducting that war. The Congress has passed acts of like import. Can it be denied that the Congress has the power to pass a law abolishing slavery in order to deprive their enemy of a vast power used by them in sustaining this atrocious war? Hamilton says, "The right of war is to take life and to attack and seize all property, in order to ob-

“tain indemnification for any injury received; to *disable our enemy from doing us any further harm*; to *force him, to submission to the laws*; TO REPRESS AN OVERBEARING AMBITION.”

By the preamble to the Constitution, the people of the United States of America declared to the world that they ordained and established a Government for the United States of America, among other things, in order “*to secure the blessings of liberty*” for themselves and their posterity. Thus are we assured that the great democratic principle of *universal liberty* is the foundation of our political structure.

It is absurd to attempt to confine this sublime declaration to any particular race or class of men, or to exclude any persons from its blessings. It was practically carrying out the great truths of the Declaration of Independence, “All men are created equal, and are endowed by their Creator with the inalienable right *to life, liberty, and the pursuit of happiness.*”

This declaration has been subjected to illiberal criticism. It does not mean to assert that all men are equal in their physical, mental, or moral qualities; but that all are equal before the law, and equally entitled to protection for their lives, their liberty, and in the pursuit of happiness. It declared that great Christian truth, “The brotherhood of man in fellowship with Christ.”

If freedom to all is the basis of our Constitution; and if to secure its blessings to all men was one of the purposes of the people in ordaining and establishing that Constitution, does it not necessarily follow, as effect from cause, that all the laws of States holding persons as slaves are in direct and palpable violation of, and antagonistic to, that Constitution? That such laws should have been recognized as existing in some of the States was a grievous violation of duty, for which we are now tasting the bitter fruits. This war to protect and extend slavery gives to Congress *the power and the opportunity* to suppress this barbarism. The civilized world calls upon us vigorously and sternly to perform that sacred duty. By promptly doing so, some atonement will be made for the past; the Union will be restored, reinvigorated; the general welfare will be promoted and secured, by the blessing of God, to future generations.

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